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The Attorney General, S. Gordon Cumming, E. E. Montague, and Wm. C. L. Taliaferro, all of Hampton, for plaintiffs in error.

J. W. Read, of Newport News, and *T. G. Pollard*, for defendant in error.

NORFOLK & W. RY. CO. *v.* COFER.

Jan. 16, 1913.

[76 S. E. 909.]

1. Master and Servant (§ 265*)—Injury to Railroad Employee—Suspension of Rules—Burden of Proof.—In an action by an experienced car inspector for injuries from the bumping of a car while he was coupling air on standing cars, without having displayed a signal as required by the defendant's rule, the burden was upon the plaintiff to sustain his contention that this rule had been so habitually disregarded, with the master's acquiescence, as to amount to its suspension.

[Ed. Note.—For other cases, see Master and Servant, Cent. Dig. §§ 877-908, 955; Dec. Dig. § 265* 9 Va.-W. Va. Enc. Dig. 710.]

2. Master and Servant (§ 281*)—Injury to Railroad Employee—Suspension of Rules—Sufficiency of Evidence.—Evidence, in an experienced car inspector's action for injuries received while he was violating a rule requiring a light to be displayed, held not to show an implied suspension of such rules.

[Ed. Note.—For other cases, see Master and Servant, Cent. Dig. §§ 987-996; Dec. Dig. § 281.* 9 Va.-W. Va. Enc. Dig. 710.]

3. Master and Servant (§ 240*)—Injury to Railroad Employee—Contributory Negligence.—Where an experienced car inspector attempted, on a dark night, to couple the air appliances on standing cars, and placed himself in a crouching position between the cars without any warning of his presence to any one, though he should have known that the cars were likely to be bumped into, he was guilty of contributory negligence barring recovery for his consequent injuries.

[Ed. Note.—For other cases, see Master and Servant, Cent. Dig. §§ 751-756; Dec. Dig. § 240.* 9 Va.-W. Va. Enc. Dig. 716.]

Error to Corporation Court of Radford.

Action by *G. W. Cofer* against the Norfolk & Western Railway Company. Judgment for plaintiff, and defendant brings error. Reversed.

T. W. Reath, of Philadelphia, Pa., *R. L. Jordan*, of East Radford, and *Phlegar Powell, Price & Shelton*, of Bristol, for plaintiff in error.

H. C. Tyler, of East Radford, for defendant in error.

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.